

USSN 10/680,966

2

Response dated April 7, 2005

Reply to Office communication of March 29, 2005

REMARKS/ARGUMENTS

This is in response to the Office Action of March 29, 2005. It is respectfully submitted that the Examiner is submitting this application to a determination as to its patentability. This is erroneous.

When the application was filed, a Request for Statutory Invention Registration (SIR) was submitted (See Exhibit A). Accordingly, Applicant has waived the right to receive a U.S. Patent on the invention as claimed.

Under 35 CFR 1.293 and 1.294 the only examination for an SIR is to ascertain whether the application complies with Section 293, namely, a waiver, a required fee, a statement that the application complies with Section 112 of the Patent Statute, and that the application complies with the formal requirement for printing. Applicant has submitted such a request when the application was filed. See Exhibit A.

Under 35 U.S.C. 157, publication of the application is authorized, "notwithstanding any provision of this title." In essence applicant herein need not establish patentability of the claimed invention.

Section 157 of the Patent Statute states, however, "if an interference is declared with respect to such an application, a statutory invention registration may not be published unless the issue of priority of invention is finally determined in favor of the applicant."

Applicant respectfully requests an interference be set up with respect to U.S. Patent 6,835,853, the patent issuing from U.S. Publication 2003/0109752, the cited reference herein.

USSN 10/680,966

3

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In summary, applicant has complied with all of the requirements of 35 U.S.C. 157 for a statutory invention registration. Applicant's claimed invention fully comports with the claims of the '853 patent, an interference should be declared.

Should the Examiner have any questions on the above he may call the undersigned collect.

It is not believed that any new fees are necessitated by the entry of this amendment. However in the event that any new fees or charges are required, authorization is hereby given to charge such fees to applicant's Deposit Account No 50-0852. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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